

IN THE HIGH COURT OF SIKKIM

ORDER SHEET


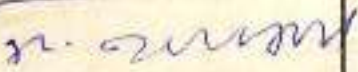
Arb. A. No. 7 of 199x 2000

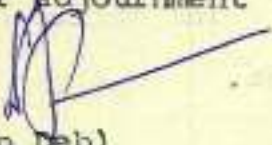
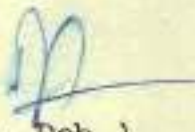
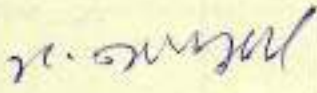
K & Co. Petitioner/Appellant


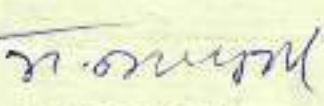

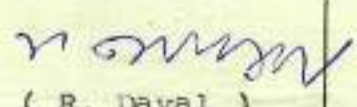
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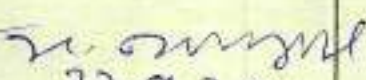
State of Sikkim Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	1.6.2000	<p>Present : Mr. T. B. Thapa with Mr. Bhaskar Raj Pradhan, Advocates for the appellant.</p> <p>Mr. S. P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the respondent.</p> <p>---</p> <p>Heard. Admit.</p> <p>Issue notice to the respondents.</p> <p>The matter be listed for hearing on 25th July, 2000 as prayed for by the appellant.</p> <p><u>C.M.A.146/2000</u></p> <p>Heard on the application moved by the appellant for stay of the judgment and order passed by the learned District Judge, Special Division whereby the award passed in favour of the appellant was set aside, inter alia, on the ground that the agreement for referring the matter between the parties was against the provisions of sub-sections (1), (2) and (3) of section 56 of the Trade and Merchandise Marks Act, 1958.</p> <p>One of the prayers made in the stay application is that the respondent may be restrained from using the 77 trade marks</p>	<p>Title corrected on 12.6.2000</p> <p>Copy issued before 12.6.2000 as cause title Kulana Company</p>

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		<p>in relation to the lotteries until the disposal of the Appeal.</p> <p>After hearing learned Counsel for the parties, we do not consider it to be a fit case where we should stay the operation of the impugned order dated 29th April, 2000 passed by the learned District Judge, Special Division, Gangtok and restrain the respondents from using the 77 trade marks in relation to its lotteries. If any order of stay as prayed for by the appellant is granted, and in case the appeal is dismissed, the State will lose its revenue only on account of the order of the Court. However, we permit the appellant to participate in relation to the tender which, if invited, in respect of 77 trade marks in relation to the lotteries to participate, without prejudice to the rights and contentions of the parties.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  (A. Deb) <u>Judge.</u> </div> <div style="text-align: center;">  (R. Dayal) <u>Chief Justice</u> </div> </div>	

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2.	11-7-2000	<p>Present: Mr. T.B. Thapa with Mr. Bhaskar Raj Pradhan, Advocates for the appellant.</p> <p>Mr. S.P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the respondent.</p> <p>---</p> <p>This case has been fixed for hearing on 25-7-2000. It is made clear that this case will be heard on 25-7-2000 and adjournment will not be given on that date on any ground.</p> <p>The application for adjournment is rejected.</p> <p style="text-align: center;"> (Anup Deb) <u>Acting Chief Justice.</u></p>	
3.	25.7.2000	<p>Present : Mr. T. B. Thapa, Advocate for the appellant.</p> <p>Mr. S. P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the respondent.</p> <p>-----</p> <p>Heard arguments in part.</p> <p>Be listed on 26.07.2000 for further arguments on top of the list.</p> <p style="text-align: center;"> (A. Deb) <u>Judge</u></p> <p style="text-align: center;"> (R. Dayal) <u>Chief Justice.</u></p>	
4.	26.7.2000	<p>Present : Mr. T.B. Thapa with Mr. Bhaskar Raj Pradhan, Advocates for the appellant.</p>	

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		<p>Mr. S.P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the respondent.</p> <p>-----</p> <p>Heard arguments in part.</p> <p>The learned Counsel for the appellant requests for a date to prepare the case. With the consent of the learned Counsel for the parties, the matter is adjourned for hearing to 31-7-2000.</p> <p>The matter be listed on the top of the list.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  (A. Deb) Judge. <u>26-7-2000</u> </div> <div style="text-align: center;">  (R. Dayal) Chief Justice <u>26-7-2000</u> </div> </div>	
5.	31.7.2000	<p>Present : Mr. T. B. Thapa with Mr. Bhaskar Raj Pradhan, Advocates for the appellant.</p> <p>Mr. S..P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the respondent.</p> <p>---</p> <p>Heard arguments. Judgment reserved.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  (A. Deb) Judge <u>31.7.2000</u> </div> <div style="text-align: center;">  (R. Dayal) Chief Justice <u>31.7.2000.</u> </div> </div>	

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6.	27.9.2000	<p>Present : Mr. T. B. Thapa with Mr. Bhaskar Raj Pradhan, Advocates for the appellant.</p> <p>Mr. S. P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the respondent.</p> <p>---</p> <p>The respondent has moved CMA No. 247/2000 to the effect that the State Government has decided that they will not proceed with the sale of lottery tickets under the 77 disputed lottery names and they undertake to abide by the decision. A prayer has been made for passing necessary orders. The learned Advocate General submits that in view of the decision of the Government, the Government does not press the application filed under Section 34 of the Arbitration and Conciliation Act, 1996.</p> <p>Accordingly, the appeal is allowed, the impugned judgment and order of the learned trial Judge is set aside and the application under Section 34 of the Arbitration and Conciliation Act, 1996 is dismissed as not pressed.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  (A. Deb) Judge 27.9.2000 </div> <div style="text-align: center;">  27.9.2000 (R. Dayal) Chief Justice 27.9.2000 </div> </div>	<p>A copy of order has sent to trial Judge Wangdi</p>